

AMENDED IN ASSEMBLY JANUARY 9, 2008

AMENDED IN ASSEMBLY JANUARY 7, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 499

Introduced by Assembly Member Swanson

February 20, 2007

~~An act to amend Sections 647, 653.22, 653.23, 679.01, 679.04, 11165.1, 11166.3, 13828, and 13828.1 of the Penal Code, and to amend Sections 300 and 313 of, to add Sections 307.6 and 626.1 to, and to add Chapter 4.3 (commencing with Section 18259) to Part 6 of Division 9 of, the Welfare and Institutions Code, relating to sexually exploited minors.~~
An act to add and repeal Chapter 4.3 (commencing with Section 18259) of Part 6 of Division 9 of the Welfare and Institutions Code, relating to sexually exploited minors.

LEGISLATIVE COUNSEL'S DIGEST

AB 499, as amended, Swanson. Sexually exploited minors.

~~(1) Existing law provides that a minor under the jurisdiction of the juvenile court who is in need of protective services shall receive care, treatment, and guidance consistent with his or her best interest and the best interest of the public. Existing law provides that a minor under the jurisdiction of the juvenile court as a consequence of delinquent conduct shall, in conformity with the interests of public safety and protection, receive care, treatment, and guidance that is consistent with his or her best interest, that holds the minor accountable for his or her behavior, and that is appropriate for his or her circumstances.~~

~~Under existing law, it is a misdemeanor to solicit or engage in lewd or dissolute conduct in any public place, to solicit or engage in any act~~

of prostitution, to loiter in any public place with the intent to commit prostitution, or to supervise or otherwise aid a prostitute.

~~This bill would declare the intent of the Legislature that minors arrested for prostitution should be treated as victims, and taken to a secure detention center or safe house and processed the same as a person who is a victim of sexual abuse or domestic violence. The bill would require a peace officer, if a person under 14 years of age has violated any of the prostitution-related provisions described above, to place the person in civil protective custody on a safety hold as a sexually exploited minor and to take the person to a secure protective facility, as specified. The bill would provide that a person under 14 years of age who has been placed in civil protective custody on a safety hold as a sexually exploited minor shall not thereafter be subject to any criminal prosecution or juvenile court proceeding based on the facts giving rise to that placement. The bill would require a peace officer to similarly place a detained or arrested sexually exploited minor who is 14 to 17 years of age, inclusive, in a secure detention center, the local juvenile justice center, or a secure safe house, and would defer prosecution or provide for a deferred entry of judgment of that minor during participation in a program for sexually exploited minors, as specified. Upon completion of that program, the bill would require the dismissal of charges against the minor. By imposing new duties on local law enforcement authorities, the bill would impose a state-mandated local program.~~

~~(2) Existing law establishes statutory rights of victims and witnesses of crime, as specified, and authorizes a law enforcement officer to provide a victim's rights card to the victim of a crime. Existing law provides that a victim of sexual assault has the right to have victim advocates and a support person of the victim's choosing present at any interview by law enforcement authorities, district attorneys, or defense attorneys. Existing law defines "victim" for purposes of these provisions as a person against whom a crime has been committed.~~

~~This bill would include a sexually exploited minor, as described in paragraph (1) above, within the definition of "victim" for purposes of these provisions. The bill would also give sexually exploited minors the right to have victim advocates and a support person of the victim's choosing present at any interview by law enforcement authorities, district attorneys, or defense attorneys. By imposing new duties on local law enforcement and criminal justice authorities, the bill would impose a state-mandated local program.~~

~~(3) Existing law establishes the Child Abuse and Neglect Reporting Act, which requires specified persons who have knowledge of or observe a child in their professional capacity or within the scope of their employment, whom the person knows or reasonably suspects has been the victim of child abuse or neglect to make a report to a child protective agency, as defined. Existing law defines “sexual abuse” to include sexual assault or sexual exploitation, as specified, for purposes of these provisions.~~

~~This bill would clarify that a sexually exploited minor, as described in paragraph (1) above, is a form of sexual exploitation within the definition of “sexual abuse” for purposes of these provisions.~~

~~(4) Existing law, part of the Child Abuse and Neglect Reporting Act, states the Legislature’s intent that in each county the law enforcement agencies and the county welfare or probation department shall develop and implement cooperative arrangements in order to coordinate existing duties in connection with the investigation of suspected child abuse or neglect cases.~~

~~This bill, instead, would require the law enforcement agencies and county welfare or probation department in each county to develop and implement a joint policy with cooperative arrangements in order to coordinate existing duties in connection with the investigation of suspected child abuse or neglect cases, including the appropriate handling of sexually exploited minors, as described in paragraph (1) above. By imposing new duties on local authorities, the bill would impose a state-mandated local program.~~

~~(5) Existing law declares the findings of the Legislature that there is a need to develop and provide training programs regarding the handling of judicial proceedings involving the victims of child sexual abuse, and the intent of the Legislature to provide training programs to ensure that children who are victims of sexual abuse shall be treated with consideration during judicial and administrative hearings.~~

~~This bill would extend those findings to sexually exploited minors.~~

~~(6) Existing law requires the Judicial Council to establish an ongoing program to provide training for the judicial branch of government relating to the handling of child sexual abuse cases from funds appropriated for that purpose.~~

~~This bill would extend that program of training to include cases of sexual exploitation of minors.~~

~~(7) Existing law provides that a child who has been abused or neglected, as described, is within the jurisdiction of the juvenile court~~

~~and may be adjudged a dependent child of the juvenile court. This provision applies, among other things, if the child has been sexually abused, or there is a substantial risk that the child will be sexually abused, as defined in the Child Abuse and Neglect Reporting Act, by his or her parent or guardian or a member of his or her household, or the parent or guardian has failed to adequately protect the child from sexual abuse when the parent or guardian knew or reasonably should have known that the child was in danger of sexual abuse.~~

~~This bill would clarify that a sexually exploited minor may be found within the jurisdiction of the juvenile court and adjudged a dependent child of the juvenile court.~~

~~(8) Existing law authorizes a peace officer to take a minor that the officer has reasonable cause to believe is within the jurisdiction of the juvenile court, either as a dependent child or as a ward of the court, into temporary custody without a warrant, as specified. Existing law provides procedures for processing the minor thereafter.~~

~~This bill would require an officer who takes a sexually exploited minor into temporary custody pursuant to specified provisions to take the minor to a secure detention center, the local juvenile justice center, or a secure protective facility designated by the county that offers victim services to establish a safety plan and secure appropriate placement for the minor. The bill would require each detained minor to undergo a specified assessment. The bill would require the receiving organization to take immediate steps to notify the minor's parent, guardian, or a responsible relative of the place to which the minor was taken, and would require the officer to make a report of suspected child abuse or neglect. By imposing new duties on local law enforcement, the bill would impose a state-mandated local program.~~

~~(9) Existing law requires the release within 48 hours of a minor who is taken into temporary custody by a peace officer or probation officer for suspected abuse or neglect, unless a petition to declare him or her a dependent child has been filed.~~

~~This bill would authorize a sexually exploited minor who is taken into temporary custody by a peace officer or probation officer to be held in custody in excess of 48 hours in order to establish a safety plan and secure appropriate placement for the minor, and as specified for a minor under 14 years of age.~~

~~(10) Existing~~

~~Existing law declares the findings of the Legislature that there is a need to develop programs to ameliorate, reduce, and ultimately eliminate~~

the trauma of child sexual abuse, and that, for the purposes of developing and providing these programs and services, and for the training of, and providing information to, city and county personnel throughout the state, it is necessary to expand specified services.

This bill would create a pilot project, *to remain in effect until January 1, 2012*, within the County of Alameda for the purposes of creating, implementing, and delivering a standardized training—~~curricula~~ *curriculum* that will provide training for certain county employees on the sexual exploitation of minors in Alameda County, including state certification of sexually exploited minor crisis counselors, upon appropriation, and as specified. By adding to the duties of county employees, the bill would impose a state-mandated local program.

~~(11) The~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 4.3 (commencing with Section 18259)
2 is added to Part 6 of Division 9 of the Welfare and Institutions
3 Code, to read:

4
5 CHAPTER 4.3. SEXUALLY EXPLOITED MINORS PILOT PROJECT

6
7 18259. (a) There is hereby created a pilot project in the County
8 of Alameda for the purposes of creating, implementing, and
9 delivering a standardized training curriculum that will provide
10 training on the sexual exploitation of minors in Alameda County,
11 and in accordance with current law, the district attorney shall
12 establish a Section 654 program for sexually exploited minors who
13 are otherwise eligible under Section 654. The standardized training
14 curriculum shall include, but not be limited to, advocacy or case
15 planning, including advocacy from the point of detainment, court

1 advocacy, advocacy and joint case planning with probation
2 officers, developing and understanding case studies, and intensive
3 case management and advocacy throughout any legal process
4 involving the district attorney's office and law enforcement,
5 deprogramming, empowerment, including surviving child sexual
6 exploitation workshop series, self-sufficiency workshop series, and
7 self-discovery and self-esteem-based workshop series, intensive
8 case management, including working with a child welfare worker
9 or parents and probation officers on placement options,
10 educational options, employment options, engagement activities,
11 and other services recommended for the minor or requested by
12 the minor commencing with the custody process and continuing
13 through and after release.

14 (b) The pilot project in the County of Alameda shall design and
15 create a training curriculum for advocates and case managers
16 consisting of a 40-hour sexually exploited minor crisis counseling
17 training. The training shall be administered by a nonprofit
18 organization that is established specifically to serve sexually
19 exploited children and will include the state certification of sexually
20 exploited minor crisis counselors upon completion of the 40-hour
21 training. The 40-hour sexually exploited minor crisis counseling
22 training shall include, but not be limited to, understanding child
23 sexual exploitation or commercial child sexual exploitation, the
24 impact of child sexual exploitation or commercial child sexual
25 exploitation, understanding childhood sexual abuse, overview of
26 sexual assault or rape, suicide prevention, sexually exploited
27 minors interfacing with law enforcement and the child welfare
28 and juvenile justice systems, domestic violence and sexually
29 exploited minors, sexually exploited minors with disabilities, crisis
30 intervention, substance abuse and sexually exploited children,
31 overview of post-traumatic stress disorder, survivors of childhood
32 sexual abuse, lesbian, gay, questioning, bisexual, and
33 transgendered sexually exploited children, sexually exploited
34 children from immigrant families, and mandated reporting.

35 (c) The standardized training shall be designed for law
36 enforcement, in cooperation with police officer standards training,
37 for prosecutors and public defenders, in cooperation with the
38 California District Attorneys Association and the Prosecutors and
39 Public Defenders Education and Training Program created under
40 Title 1.5 (commencing with Section 11500) of Part 4 of the Penal

1 *Code, for the judiciary, in cooperation with the Judicial Council*
2 *and the Administrative Office of the Courts, for social service*
3 *providers and probation officers, in cooperation with the California*
4 *Probation, Parole and Correctional Association, and for advocates,*
5 *in cooperation with local rape crisis centers and domestic violence*
6 *service providers.*

7 *(d) Implementation of this chapter is contingent upon existing*
8 *resources or the enactment of another statute that provides*
9 *sufficient funding for the pilot project.*

10 18259.3. *For purpose of this chapter, “sexually exploited*
11 *minor” means a person under 18 years of age who has been*
12 *detained for a violation of the law or placed in civil protective*
13 *custody on a safety hold based only on a violation of subdivision*
14 *(a) or (b) of Section 647, subdivision (a) of Section 653.22, or*
15 *subdivision (a) of Section 653.23 of the Penal Code.*

16 18259.5. *This chapter shall be in effect only until January 1,*
17 *2012, and as of that date is repealed, unless a later enacted statute,*
18 *enacted on or before January 1, 2012, deletes or extends that date.*

19 SEC. 2. *If the Commission on State Mandates determines that*
20 *this act contains costs mandated by the state, reimbursement to*
21 *local agencies and school districts for those costs shall be made*
22 *pursuant to Part 7 (commencing with Section 17500) of Division*
23 *4 of Title 2 of the Government Code.*

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26 **All matter omitted in this version of the bill**
27 **appears in the bill as amended in Assembly,**
28 **January 7, 2008. (JR11)**
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32 CORRECTIONS: _____

33 Text—Page 7.
34 _____